

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
9.28.21

BILL 1

LLS NO. 22-0152.01 Jason Gelender x4330

INTERIM COMMITTEE BILL

Sales and Use Tax Simplification Task Force

BILL TOPIC: "Simplify Local Sales & Use Tax Administration"

DEADLINES: Finalize by: JAN 26, 2022 File by: JAN 28, 2022

A BILL FOR AN ACT

101 **CONCERNING SIMPLIFICATION OF LOCAL SALES AND USE TAX**
102 **COMPLIANCE AND ADMINISTRATION FOR RETAILERS THAT MAKE**
103 **RETAIL SALES IN LOCAL TAXING JURISDICTIONS WHERE THEY DO**
104 **NOT HAVE PHYSICAL PRESENCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sales and Use Tax Simplification Task Force. In order to enable the streamlining of the imposition, collection, and administration of sales and use taxes imposed by local taxing jurisdictions that use the sales and

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

use tax simplification system (SUTS) on retail sales made by retailers that use SUTS, have a state standard retail license, and do not have physical presence in a local taxing jurisdiction through the elimination of general business license requirements for such retailers, the bill requires the department of revenue (department) to require sufficient information to be collected from such a retailer, when the retailer applies for or renews a state standard retail business license through SUTS or by other means or at any other time to the extent necessary, and made available to local taxing jurisdictions through SUTS to ensure that concerns of local taxing jurisdictions, including but not limited to concerns relating to administrative efficiency, retailer compliance, and collection of sales and use tax revenue are addressed. The department is required to consult with local taxing jurisdictions when determining what information to collect and how to modify SUTS, if necessary, to make the information collected available to local taxing jurisdictions and making and testing modifications. The department is also encouraged to consult with retailers and to address any reasonable concerns they may have. The department is required to accomplish these tasks expeditiously so that no later than July 1, 2023, and sooner if feasible, a retailer that uses SUTS, has a state standard retail license, and does not have physical presence within a local taxing jurisdiction can make retail sales within the local taxing jurisdiction without having to obtain a general business license from the local taxing jurisdiction.

On and after July 1, 2022, a local taxing jurisdiction that uses SUTS is prohibited from charging a fee for a local general business license to a retailer that uses SUTS, has a state standard retail license, makes retail sales within the local taxing jurisdiction, and does not have physical presence in the local taxing jurisdiction. On and after July 1, 2023, a local taxing jurisdiction is prohibited from requiring a retailer that uses SUTS, has a state standard retail license, makes retail sales within the local taxing jurisdiction, and does not have physical presence in the local taxing jurisdiction to obtain a general business license.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 39-26-802.9 as follows:

39-26-802.9. Retailers without physical presence in local taxing jurisdictions - local general business license not required if electronic sales and use tax simplification system used - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY HEREBY FINDS

1 AND DECLARES THAT:

2 (a) REDUCING THE COSTS, MEASURED IN BOTH MONEY AND TIME,
3 OF COLLECTING AND PAYING SALES AND USE TAXES IMPOSED BY A LOCAL
4 TAXING JURISDICTION TO A RETAILER THAT DOES NOT HAVE PHYSICAL
5 PRESENCE IN A LOCAL TAXING JURISDICTION AND OF ADMINISTERING SUCH
6 TAXES TO THE LOCAL TAXING JURISDICTION IS A MATTER OF STATEWIDE
7 CONCERN;

8 (b) THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM
9 CREATED AND BROUGHT ONLINE PURSUANT TO SECTION 39-26-802.7 AND
10 COMMONLY KNOWN AS SUTS CAN BE USED TO MAKE THE IMPOSITION,
11 COLLECTION, AND ADMINISTRATION OF LOCAL SALES AND USE TAXES
12 SIMPLER AND MORE EFFICIENT SO LONG AS:

13 (I) EACH LOCAL TAXING JURISDICTION THAT USES SUTS IS
14 REQUIRED TO ALLOW ANY RETAILER THAT USES SUTS, HAS A STATE
15 STANDARD RETAIL LICENSE, AND DOES NOT HAVE PHYSICAL PRESENCE
16 WITHIN THE LOCAL TAXING JURISDICTION TO MAKE RETAIL SALES WITHIN
17 THE LOCAL TAXING JURISDICTION WITHOUT HAVING TO OBTAIN A GENERAL
18 BUSINESS LICENSE FROM THE LOCAL TAXING JURISDICTION; AND

19 (II) SUFFICIENT INFORMATION ABOUT ANY SUCH RETAILER IS
20 COLLECTED WHEN THE RETAILER APPLIES FOR A STATE STANDARD RETAIL
21 LICENSE TO ADDRESS ANY LOCAL TAXING JURISDICTION CONCERNS,
22 INCLUDING BUT NOT LIMITED TO CONCERNS RELATING TO ADMINISTRATIVE
23 EFFICIENCY, RETAILER COMPLIANCE, AND COLLECTION OF SALES AND USE
24 TAX REVENUE;

25 (c) BECAUSE IT IS IMPORTANT TO ENSURE THAT THE CONCERNS OF
26 LOCAL TAXING JURISDICTIONS ARE ADDRESSED AND THAT THEY ARE NOT
27 DISCOURAGED FROM VOLUNTARILY USING SUTS, IT IS NECESSARY AND

1 APPROPRIATE TO REQUIRE THE DEPARTMENT OF REVENUE TO CONSULT
2 WITH LOCAL TAXING JURISDICTIONS WHEN MODIFYING APPLICATION
3 REQUIREMENTS FOR THE STATE STANDARD RETAIL LICENSE AS REQUIRED
4 BY THIS SECTION; AND

5 (d) IT IS APPROPRIATE TO ELIMINATE THE COST OF A GENERAL
6 BUSINESS LICENSE TO A RETAILER THAT USES SUTS, HAS A STATE
7 STANDARD RETAIL LICENSE, AND DOES NOT HAVE PHYSICAL PRESENCE IN
8 A LOCAL TAXING JURISDICTION BY PROHIBITING A LOCAL TAXING
9 JURISDICTION THAT USES SUTS FROM CHARGING A FEE FOR A GENERAL
10 BUSINESS LICENSE TO SUCH A RETAILER UNTIL SUCH TIME AS THE LOCAL
11 TAXING JURISDICTION IS REQUIRED TO ALLOW ANY SUCH RETAILER TO
12 MAKE RETAIL SALES WITHIN THE LOCAL TAXING JURISDICTION WITHOUT
13 OBTAINING A GENERAL BUSINESS LICENSE FROM THE LOCAL TAXING
14 JURISDICTION.

15 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
16 REQUIRES:

17 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

18 (b) "GENERAL BUSINESS LICENSE" MEANS A LICENSE ISSUED BY A
19 LOCAL TAXING JURISDICTION THAT A RETAILER MUST OBTAIN TO LEGALLY
20 MAKE RETAIL SALES IN THE LOCAL TAXING JURISDICTION REGARDLESS OF
21 WHETHER THE LICENSE IS CALLED A BUSINESS LICENSE, A SALES AND USE
22 TAX LICENSE, OR BY ANOTHER NAME. AN OCCUPATIONAL LICENSE OR ANY
23 OTHER LICENSE REQUIRED TO ENGAGE IN A BUSINESS ACTIVITY OTHER
24 THAN MAKING RETAIL SALES OF GOODS IS NOT A GENERAL BUSINESS
25 LICENSE.

26 (c) "LOCAL TAXING JURISDICTION" HAS THE MEANING SET FORTH
27 IN SECTION 39-26-802.7 (1)(b).

1 (d) "PHYSICAL PRESENCE" MEANS THE CONDUCT OF BUSINESS
2 ACTIVITY, INCLUDING BUT NOT LIMITED TO THE MAINTENANCE OF A
3 PHYSICAL FACILITY OR THE CONDUCT OF RETAIL SALES, SOLICITATIONS, OR
4 OTHER BUSINESS OR ADMINISTRATIVE ACTIVITIES BY A RETAILER'S
5 EMPLOYEES OR CONTRACTORS, BY A RETAILER WITHIN A LOCAL TAXING
6 JURISDICTION OTHER THAN:

7 (I) THE DELIVERY OF GOODS FROM OUTSIDE THE LOCAL TAXING
8 JURISDICTION TO PURCHASERS WITHIN THE LOCAL TAXING JURISDICTION;
9 OR

10 (II) SPECIFICALLY TARGETED SOLICITATIONS FOR RETAIL SALES OR
11 GENERAL ADVERTISING, THROUGH ELECTRONIC OR OTHER MEANS, THAT
12 DO NOT INVOLVE THE PHYSICAL PRESENCE OF EMPLOYEES OR
13 CONTRACTORS OF THE RETAILER WITHIN THE LOCAL TAXING JURISDICTION.

14 (e) "STATE STANDARD RETAIL LICENSE" MEANS A LICENSE ISSUED
15 UNDER SECTION 39-26-103 THAT AUTHORIZES A RETAILER TO MAKE
16 RETAIL SALES IN THE STATE.

17 (f) "SUTS" MEANS THE ELECTRONIC SALES AND USE TAX
18 SIMPLIFICATION SYSTEM CREATED AND BROUGHT ONLINE PURSUANT TO
19 SECTION 39-26-802.7.

20 (3) (a) IN ORDER TO ENABLE THE STREAMLINING OF THE
21 IMPOSITION, COLLECTION, AND ADMINISTRATION OF SALES AND USE TAXES
22 IMPOSED BY LOCAL TAXING JURISDICTIONS THAT USE SUTS ON RETAIL
23 SALES MADE BY RETAILERS THAT USE SUTS, HAVE A STATE STANDARD
24 RETAIL LICENSE, AND DO NOT HAVE PHYSICAL PRESENCE IN A LOCAL
25 TAXING JURISDICTION THROUGH THE ELIMINATION OF GENERAL BUSINESS
26 LICENSE REQUIREMENTS FOR SUCH RETAILERS, THE DEPARTMENT OF
27 REVENUE SHALL REQUIRE SUFFICIENT INFORMATION TO BE COLLECTED

1 FROM SUCH A RETAILER, WHEN THE RETAILER APPLIES FOR OR RENEWS A
2 STATE STANDARD RETAIL BUSINESS LICENSE THROUGH SUTS OR BY OTHER
3 MEANS OR AT ANY OTHER TIME TO THE EXTENT NECESSARY, AND MADE
4 AVAILABLE TO LOCAL TAXING JURISDICTIONS THROUGH SUTS TO ENSURE
5 THAT CONCERNS OF LOCAL TAXING JURISDICTIONS, INCLUDING BUT NOT
6 LIMITED TO CONCERNS RELATING TO ADMINISTRATIVE EFFICIENCY,
7 RETAILER COMPLIANCE, AND COLLECTION OF SALES AND USE TAX
8 REVENUE ARE ADDRESSED. IN DETERMINING WHAT INFORMATION TO
9 COLLECT, HOW TO MODIFY SUTS, IF NECESSARY, TO MAKE THE
10 INFORMATION COLLECTED AVAILABLE TO LOCAL TAXING JURISDICTIONS
11 AS REQUIRED BY THIS SUBSECTION (3)(a), AND MAKING AND TESTING
12 MODIFICATIONS, THE DEPARTMENT SHALL CONSULT WITH LOCAL TAXING
13 JURISDICTIONS, INCLUDING BUT NOT LIMITED TO LARGE, MEDIUM, AND
14 SMALL HOME RULE AND NONHOME RULE MUNICIPALITIES AND LARGE,
15 MEDIUM, AND SMALL COUNTIES. THE DEPARTMENT IS ALSO ENCOURAGED
16 TO CONSULT WITH RETAILERS AND TO ADDRESS ANY REASONABLE
17 CONCERNS THEY MAY HAVE.

18 (b) THE DEPARTMENT SHALL ACCOMPLISH THE TASKS SET FORTH
19 IN SUBSECTION (3)(a) OF THIS SECTION EXPEDITIOUSLY SO THAT NO LATER
20 THAN JULY 1, 2023, AND SOONER IF FEASIBLE, A RETAILER THAT USES
21 SUTS, HAS A STATE STANDARD RETAIL LICENSE, AND DOES NOT HAVE
22 PHYSICAL PRESENCE WITHIN A LOCAL TAXING JURISDICTION CAN MAKE
23 RETAIL SALES WITHIN THE LOCAL TAXING JURISDICTION WITHOUT HAVING
24 TO OBTAIN A GENERAL BUSINESS LICENSE FROM THE LOCAL TAXING
25 JURISDICTION.

26 (4) (a) ON AND AFTER JULY 1, 2022, A LOCAL TAXING
27 JURISDICTION THAT USES SUTS SHALL NOT CHARGE A FEE FOR A GENERAL

1 BUSINESS LICENSE TO A RETAILER THAT USES SUTS, HAS A STATE
2 STANDARD RETAIL LICENSE, MAKES RETAIL SALES WITHIN THE LOCAL
3 TAXING JURISDICTION, AND DOES NOT HAVE PHYSICAL PRESENCE IN THE
4 LOCAL TAXING JURISDICTION.

5 (b) ON AND AFTER JULY 1, 2023, A LOCAL TAXING JURISDICTION
6 SHALL NOT REQUIRE A RETAILER THAT USES SUTS, HAS A STATE
7 STANDARD RETAIL LICENSE, MAKES RETAIL SALES WITHIN THE LOCAL
8 TAXING JURISDICTION, AND DOES NOT HAVE PHYSICAL PRESENCE IN THE
9 LOCAL TAXING JURISDICTION TO OBTAIN A GENERAL BUSINESS LICENSE.

10 **SECTION 2.** In Colorado Revised Statutes, 29-2-106, **amend** (6)
11 as follows:

12 **29-2-106. Collection - administration - enforcement.** (6) The
13 executive director of the department of revenue may, in ~~his~~ THE
14 EXECUTIVE DIRECTOR'S discretion, exchange information with the proper
15 official of any home rule city ~~which~~ THAT imposes a sales and use tax
16 relative to gross sales reported, changes in gross sales resulting from
17 audits, and other information concerning licensed vendors MAKING
18 RETAIL SALES within the jurisdiction of the home rule city. IF A HOME
19 RULE CITY USES THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION
20 SYSTEM CREATED AND BROUGHT ONLINE PURSUANT TO SECTION
21 39-26-802.7, THE EXECUTIVE DIRECTOR SHALL EXCHANGE SUCH
22 INFORMATION THROUGH THE SYSTEM TO THE EXTENT REQUIRED BY
23 SECTION 39-26-802.9 (3)(b).

24 **SECTION 3. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety. <{Necessary for July
27 1, 2022, implementation of 39-26-802.9 (4)(a)}>